



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33668505

Date: OCT. 3, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a top executive and furniture business owner, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that he had received a one-time achievement (a major, internationally recognized award) or that he satisfied at least three of the initial evidentiary criteria, as required for the requested classification. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner states that he has been an executive and business owner for nearly 20 years. For the last 10 years he has been the owner, chief executive officer, and general director of a furniture business. His business specializes in manufacturing bedroom, kitchen and children’s furniture, as well as customized designs. He states that his duties as chief executive officer include, “directing company strategy and overseeing design and manufacturing processes, expanding the company’s market reach, including exports to neighboring countries, and focusing on innovation in furniture design and sustainable manufacturing practices.” The Petitioner seeks to establish a furniture business in the United States and “direct and oversee the operations.”

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed that he met three of these criteria:

- (i), Lesser nationally or internationally recognized awards;
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation; and
- (ix), Commanding a high salary, or other significantly high remuneration, in relation to others in the field.

The Director issued a request for evidence (RFE), notifying the Petitioner that the evidence in the record was not sufficient to establish that the Petitioner met any of the claimed criteria. The Director allowed the Petitioner an opportunity to submit additional evidence to attempt to demonstrate that he satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In response to the RFE, the Petitioner reasserted that he met the above three criteria. He submitted additional evidence in support of the criteria at 8 C.F.R. § 204.5(h)(3)(i) (lesser nationally or

internationally recognized awards), and (viii) (performing in a leading or critical role for an organization with a distinguished reputation). The Petitioner did not submit additional evidence or further address his eligibility for the criterion at 8 C.F.R. § 204.5(h)(3)(ix) (commanding a high salary or other remuneration in relation to others in the field).

In denying the petition, the Director determined that the Petitioner did not meet any of the claimed criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). As the Petitioner did not meet any of the criteria, the Director declined to conduct a final merits analysis to determine whether the Petitioner has reached a level of expertise indicating that he is one of that small percentage who have risen to the very top of the field of endeavor, and whether he has sustained acclaim.

A. Evidentiary Criteria

On appeal, the Petitioner submits a brief, but does not identify any error, in law or fact, in the Director's decision. The Petitioner references evidence already in the record relating to the criterion at 8 C.F.R. § 204.5(h)(3)(i) and submits additional evidence in support of 8 C.F.R. § 204.5(h)(3)(viii) and (ix). For the reasons discussed below, we find that the Petitioner has not established that he has met three criteria and satisfied the initial evidentiary requirements.

Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the foreign national is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor. 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>. Appropriate lines of inquiry under this criterion include the number of awardees, the criteria by which awardees are selected, the selection process itself, the entity that granted the award, and evidence that addresses the reputation of the award within the field. *Id.*

With the initial filing, the Petitioner claimed that he meets this criterion based on "several nationally and internationally recognized prizes and awards for excellence in the field of Executive Management and Wood Working Business." However, he did not name the awards, identify the awarding organization, or provide supporting documentary evidence.

In response to the RFE the Petitioner listed the following awards as evidence that he meets this criterion:

- 2021 Certificate of Recognition, Craft Fair [redacted] "organized by the [redacted] [redacted] and the [redacted] [redacted]
- 2021 Certificate of Recognition, Youth and Students' Forum of [redacted]
- 2021 Certificate of Recognition, 38th General Assembly of the [redacted] [redacted]

He provided copies of the certificates and general information about each event.

The Director concluded that the Petitioner did not meet this criterion because he did not establish that the awards were given for excellence in the field of endeavor, or that the purpose of the awards was to recognize excellence in the field.

On appeal, the Petitioner reasserts that he meets this criterion based on the three certificates of recognition described above and references the evidence submitted in the RFE response. The Petitioner states that the Certificate of Recognition at the Craft Fair [REDACTED] 2021 is “a prestigious award presented during this significant event.” He states that the Certificate of Recognition at the Youth and Students’ Forum of [REDACTED] was for “his dynamic engagement in this prominent national event, underscoring his excellence and achievements in his field. He also states that the Certificate of Recognition at the [REDACTED] was for “his active participation in the exhibition fair, demonstrating his commitment to promoting and preserving Uzbekistan’s cultural heritage on the international stage.”

The Petitioner’s statements, however, are not supported by evidence or information in the record. The information in the record about each event provides details about the events in which the Petitioner participated, but they do not describe the awards, including the number of awardees, the criteria used to for selecting awardees, the selection process, or evidence of the reputation of the awards. The English language translation of the awards in the record state that the certificates were issued based on the Petitioner’s “participation” at the event, rather than based on his excellence in the field of operating a furniture business. As the regulation specifies that the awards must be for excellence in the field of endeavor, it is reasonable for the Service to require evidence that the award is merit-based, which discounts evidence showing mere participation in the field. *Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182-83 (D.N.J. 2021).

For these reasons, the Petitioner has not established that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(i).

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

To qualify under this criterion, a petitioner must show that they played a leading or critical role for an organization or establishment, and that that organization or establishment has a distinguished reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities or those of a division or department of the organization or establishment. *6 USCIS Policy Manual* F.2(B)(1), *supra*.

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer

base or relevant media coverage. “Merriam-Webster’s online dictionary defines ‘distinguished’ as ‘marked by eminence, distinction, or excellence’ or ‘befitting an eminent person.’” *Id.*

With the initial filing, the Petitioner stated that he “had the privilege of playing leading and critical roles in distinguished organizations throughout [his] career ... [He] held positions of significant responsibility and authority, where [he] spearheaded important initiatives, guided teams, and made substantial contributions to the success and growth of the organizations.” However, he did not name the organizations or provide evidence of the reputations of these organizations. Nor did he specifically describe his role with any organization.

In response to the RFE, the Petitioner stated that he has been a member of the Hunarmand Association since 2014. He provided information about the Hunarmand Association, identifying it as a “non-profit, non-governmental public organization, founded [by Decree of the President] for further development of folk arts and crafts.” Its purpose is “to preserve the centuries-old folk art traditions, promote development of rich and diverse arts and applied arts of Uzbekistan.” The information also indicates that the Hunarmand Association is a member of the World Crafts Council for the Asia Pacific Region, a non-governmental organization through the United Nations Educational, Scientific and Cultural Organization (UNESCO).

He also provided an unsigned letter dated January 18, 2024. While the letterhead of this letter is in a foreign language, the body of the letter is in English. The letter states that the Petitioner “actively participated in many prestigious exhibitions organized by ‘Hunarmand’ association.” The letter further states that the Petitioner “created a unique method in the field of wooden folk handicrafts and furniture with his creative thinking and unusual ideas. His household items and furniture, made by combining modern and national styles, decorate many houses in [REDACTED]

The Director determined that this criterion was not met because the Petitioner had not established that he served in a leading or critical role for any organization, or that the Hunarmand Association has a distinguished reputation.

On appeal, the Petitioner asserts that recommendation letters he submits on appeal demonstrate that he has played an “influential role in the industry” in partnering with organizations that he identifies as [REDACTED]. The Petitioner does not address the Director’s conclusions regarding his membership in the Hunarmand Association and does not provide additional evidence about this organization.

A recommendation letter from the “CEO of [REDACTED] identifies the organization as a furniture sales business. The letter states that the Petitioner entered into a partnership with [REDACTED] that “marked the beginning of a project that would subsequently change standards in the Central Asian furniture market.” Neither the letter, nor other evidence in the record, explains how the standards of the furniture market were changed and the role the Petitioner played. Nor does the record include evidence of the reputation of [REDACTED]

A recommendation letter from the “Head of the company” of [REDACTED] identifies the Petitioner as a business partner in furniture manufacturing. The letter describes the Petitioner’s

personal and professional qualities. Neither the letter, nor other evidence in the record, explains the Petitioner's role or the reputation of

Although the Petitioner does not discuss his membership with the Hunarmand Association on appeal, we agree with the Director's conclusion that the Petitioner did not establish that he played a leading or critical role with this organization. The January 18, 2024 letter describes the Petitioner's role as a participant in exhibitions, but does not explain how his role was leading or critical to the organization. Although the letter mentions that he created a "unique method," the letter does not describe this method in detail or explain how this new method was of significant importance to the outcome of the Hunarmand Association's activities.

The Petitioner has not established that he meets the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

Evidence that the alien has commanded a high salary, or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

To establish eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(ix), a petitioner must show that they have commanded a high salary, or other significantly high remuneration for services, in relation to others in the field. Evidence relevant to demonstrating an individual's high salary may include comparative wage or remuneration data for the person's field, such as geographical or position-appropriate compensation surveys. *See generally*, 6 *USCIS Policy Manual* F.2(B)(1), *supra*.

With the initial filing, the Petitioner stated that he has commanded a high salary in relation to others in the field of executive management and wood working. He stated, "This is evidence from my successful entrepreneurship endeavors and my experience working with established large organizations." However, he did not provide evidence of his salary or remuneration, or comparative wage or remuneration of others in the field.

The Petitioner did not address his eligibility under this criterion in the RFE response. However, the Director analyzed letters of recommendation in the record and concluded that the Petitioner did not establish that his salary or remuneration is high relative to others working in the field.

On appeal, the Petitioner submits a letter from his current employer, his own furniture business. The letter states that the Petitioner has "a fixed salary of 85,000,000.00 Uzbekistan Som per month." The Petitioner states, "This substantial salary is indicative of his high level of expertise, leadership, and the value he brings to the organization."

The record does not include comparative wage data, although this was specifically requested in the RFE and noted in the Director's decision. Nor does the Petitioner provide evidence to support his claimed salary, such as tax returns, pay statements, or job contracts. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Upon de novo, we conclude that the Petitioner has not established by a preponderance of the evidence that he has commanded a high salary in relation to others in the field. Therefore, the Petitioner has not met the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ix).

B. Summary

Upon review of the record, we conclude that the Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we need not fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the record in the aggregate, and conclude that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought.

Here, the Petitioner has not shown that the significance of his accomplishments as executive of a furniture business is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act. The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

ORDER: The appeal is dismissed.